

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

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Osama Allan,  
Petitioner,

vs.

NO: 1:CV-00-1460  
Judge Kane

Charles Zemski, Acting District Director  
Respondent.

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OK  
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FILED  
HARRISBURG

OCT 11 2000

MARY E. D'ANDREA, C  
Per. *[Signature]*  
DEPUTY CLERK

Petitioner's Memorandum In Support Of Motion To Submit Exhibit

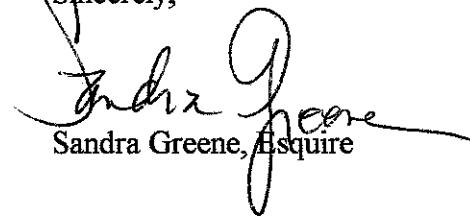
Preliminary questions concerning the admissibility of evidence shall be determined by the court, subject to the relevancy of the evidence. Federal Rules of Evidence, Rule 104. Relevant evidence means evidence, important to the ultimate determination of the pending proceeding, that tends to establish that a fact is more probable or less probable than could occur without admission of the evidence. Federal Rules of Evidence, Rule 401. With limited exceptions, all relevant evidence is admissible. Federal Rules of Evidence, Rule 401. Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or other factor such as waste of time, or needless presentation of cumulative evidence. Federal Rules of Evidence, Rule 403. Public Records are not excluded by the hearsay rule where such records contain factual findings made in civil proceedings unless there is reason to believe that the information is untrustworthy. Federal Rules of Evidence, Rule 803. Such documents are self-authenticating as they contain the signature of an official of the United States.

Petitioner seeks to have the decision of the immigration judge from his administrative proceedings admitted as an exhibit in these proceedings. The intended

exhibit is relevant as it was relied upon by the Board of Immigration Appeals, the body whose decision this court reviews in these proceedings. Further, inasmuch as the exhibit provides insight into the decision of the Board of Immigration Appeals, its probative value is not outweighed by the danger of unfair prejudice, confusion of the issues, waste of time, or cumulative evidence. Additionally, the document is not excludable on the basis of hearsay because as a public record, it falls within an exception to the hearsay rule. There is no basis for any assertion that the information contained in the intended exhibit is untrustworthy.

Inasmuch as Counsel has only recently obtained a full copy of the decision of the immigration judge from the administrative proceedings below and Petitioner seeks to have this evidence admitted prior to the time that this court has issued a decision on pending appeal, the exhibit should be admitted.

Sincerely,

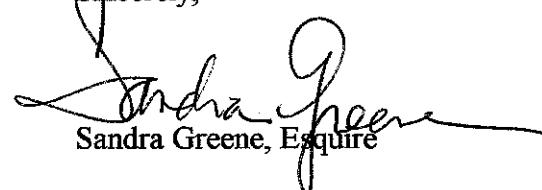


Sandra Greene, Esquire

#### CERTIFICATE OF SERVICE

I hereby certify that I caused to be Served upon Larry Selkowitz, Assistant US Attorney, a true and correct copy of this document by hand delivery on October 12, 2000 at 228 Walnut Street, 2nd Floor, Harrisburg, PA 17108.

Sincerely,



Sandra Greene, Esquire